

## 1 BACKGROUND

The mission of the United States Patent and Trademark Office (USPTO) is to foster innovation and competitiveness by providing high quality and timely examination of patent and trademark applications, guiding domestic and international intellectual property policy, and delivering intellectual property information and education worldwide. The Board of Patent Appeals and Interferences and Office of General Counsel support the mission of the Agency.

To accomplish this mission, the Agency must hold hearings, hear appeals, and make decisions on a host of patent-related matters and non-patent related matters. The handling of these matters must be documented.

The Board of Patent Appeals and Interferences (BPAI) is responsible for reviewing adverse decisions of examiners in those situations where a written appeal is taken by a dissatisfied patent applicant and shall determine priority (that is, decide who is the first inventor) whenever an applicant claims the same patentable invention which is already claimed by another applicant or patentee.

The Office of General Counsel (OGC) is responsible for overall management of the division and acts as the Under Secretary and Director's principal legal advisor in assuring the provision of legal advice and representation for the agency. OGC is also the delegated authority to hear appeals from decisions in enrollment and discipline matters, and to determine whether special circumstances exist pursuant to [35 U.S.C. § 122](#) for releasing information concerning patent applications.

## 2 SUPPLIES/SERVICES AND PRICES

Pricing for items 0001-0014 shall include all labor and materials needed to perform the transcription services for each deposition and hearing.

Item	Hearing/Deposition Supplies/Services	Unit	Year 1	Year 2	Year 3	Year 4	Year 5
0001	Original Transcript (5 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0002	Original Transcript (7 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0003	Original Transcript (10 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0004	Mini-scripts	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0005	Additional Transcript Copies	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0006	CD	EA	\$_____	\$_____	\$_____	\$_____	\$_____
0007	Additional Copies of CD	EA	\$_____	\$_____	\$_____	\$_____	\$_____

Request for Quote (RFQ): PTO1200046  
United Patent and Trademark Office  
Court Reporting Support Services

Item	Hearing/Deposition Supplies/Services	Unit	Year 1	Year 2	Year 3	Year 4	Year 5
0008	Reporting Fee	EA	\$_____	\$_____	\$_____	\$_____	\$_____
0009	Cancellation Fee	EA	\$_____	\$_____	\$_____	\$_____	\$_____
0010	Attendance Fee	HR	\$_____	\$_____	\$_____	\$_____	\$_____
0011	Video Recording Fee	HR	\$_____	\$_____	\$_____	\$_____	\$_____
0012	E-Transcript (5 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0013	E-Transcript (7 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____
0014	E-Transcript (10 Business Days)	PG	\$_____	\$_____	\$_____	\$_____	\$_____

### 3 PERFORMANCE WORK STATEMENT

The contractor shall furnish the necessary personnel, material, equipment, and services to meet the specifications and timeframe as described below.

#### 3.1 Scope of Services

The scope of services entails contractor support for all facets of court reporting. The scope of this work includes transcription of depositions and hearings. The USPTO reserves the right to order more specialized services such as video recordings of depositions and hearings and any other related service(s) deemed necessary for the particular event.

The Contractor shall provide court reporting services for the USPTO that are licensed and/or certified by the state where services are being performed, if applicable. The Contractor shall provide a Program Manager as a point of contact for the Contracting Officer's Technical Representative (COTR). The Contractor shall be available at dates, times, and locations as scheduled by the COTR.

For planning purposes only, the following general information is provided:

- a) The average number of hearings per month for the USPTO BPAI has been over 100 and is anticipated to increase to nearly double in the coming year. These hearings are often highly technical in nature and utilize terms of art that are uncommon in typical court hearings.
- b) The average number of court reporting events for the OGC has been 18-24\* per year.
- c) The average number of depositions for the OGC has been 15-20\* per year.
- d) The average number of arbitrations for the OGC has been 8-10\* per year.
- e) Other offices have miscellaneous requirements for recordation of public hearings, etc.

\* Many of OGC arbitration or depositions have been cancelled due to settlements. The above-mentioned are pre-settlements averages.

The USPTO intends to maintain multiple awards and rotate calls among all BPA holders. In some circumstances one contractor may be selected over another based upon expertise in a particular type of reporting required.

### **3.2 Place of Performance**

The location where the deposition/hearings proceedings will typically be required is:

United States Patent and Trademark Office  
600 Dulany Street  
Alexandria, VA 22314

Calls may be placed for other locations within the continental United States. As travel is not reimbursed under this award, BPA Holders may decline a call in a location that they are unable to provide a reporter.

### **3.3 Scheduling**

The USPTO will notify the Contractor of the requirement for attendance at a deposition or hearing no later than two (2) calendar days before the scheduled session. Each request will set forth the date, place, time of the session, and any additional information that may assist the reporter. The Contractor shall send an email to the designated ordering official confirming that all hearings/depositions have been booked with court reporters.

### **3.4 Travel**

The Contractor shall be available to travel to all USPTO depositions and hearings to perform court reporting services and attend administrative hearings requested by the COTR. No travel expenses will be reimbursed under this BPA or its associated calls.

### **3.5 Cancellation**

Court cases may be cancelled by the USPTO at any time up to 24 hours prior to the scheduled hearing without a cancellation fee being incurred. If a notice of cancellation of a hearing and/or deposition is not received by the Contractor, from the Government, prior to 3:00 p.m. the business day proceeding the day of the schedule hearing, the Contractor shall be reimbursed a cancellation fee. This charge may be applied only once per location site, per day, when all hearings scheduled for that site have been cancelled.

### **3.6 Transcription Services:**

The Contractor shall provide support services in terms of expertise and professional assistance for the following court reporter activities:

- a) The Contractor shall transcribe deposition and hearing proceedings verbatim.
- b) The Contractor shall create and maintain an electronic dictionary with parts of words, entire words, or terminology specific to the proceeding, program, or event.
- c) The Contractor shall have expert knowledge of legal terminology and appellate procedures.
- d) The Contractor is responsible for accurate identification of proper names and places.
- e) The Contractor shall ensure that the record or testimony is discernible.
- f) The Contractor shall participate in telephonic and Video Telecommunication Calls (VTC), as required.
- g) In any instance where the contractor has knowledge that any actual or potential situation may delay or threaten to delay the timely performance of this contract, the contractor shall immediately notify the CO. This notice shall include all relevant information and corrective actions that are being taken. The Government reserves the right to hold the contractor fully accountable for problems incurred as a result of such delays, including denial of delivery time extensions, if such notification is not provided.
- h) If after notice of a proposed hearing, the Contractor does not appear at the time and place specified for the hearing, the Contracting Officer (CO) will hold the contractor responsible for finding a substitute for the hearing. The Contractor may be responsible for the reimbursement to the USPTO for any expenses over and above that which would have been incurred if the Contractor had performed in accordance with this Statement of Work. The Government may deduct such expenses from any other sums due or that may become due the Contractor.
- i) The Contractor shall be fully responsible for loss or damage to materials associated with this SOW while in the contractor's care and custody. The contractor shall keep accurate records of the materials picked up from the government or received from a claimant associated with a hearing or claim. The listing shall include a list of materials, the status of the assignment, and the case number assigned by the government.
- j) The Contractor shall comply with USPTO's reporting requirements as defined under Reporting Requirements, Section 5.

### 3.7 Deliverables

Unless otherwise stated, transcripts of depositions and/or hearing shall be delivered within the timeframe(s) set forth below.

### 3.7.1 Hearing Documents

The designated ordering official may request the Contractor to submit one (1) soft copy of the transcripts (in proper format) attached to an email (Microsoft Office 2010 version or later), one (1) hard copy and/or both.

All documents shall be prepared, proofread, quality checked, and delivered within the specified (five (5), seven (7), or ten (10) business days) timeframe determined by the designated ordering official.

The Contractor shall submit recordings to the designated ordering official, as required.

### 3.7.2 Corrected Documents

The designated ordering official may request the Contractor to submit one (1) soft copy of the transcripts (in proper format) attached to an email (Microsoft Office 2010 version or later), one (1) hard copy, and/or both which accurately reflect the full and complete verbatim record of the proceeding where errors attributed to the contractor's performance appear in the transcript (i.e., those which can obscure the meaning of the testimony, but not including typographical errors or misspelling, if the intended meaning is clearly evident, such as "thier" for "their" or "teh" for "the" etc.) the government may require the contractor to immediately correct such errors and furnish the corrected transcript within two (2) business days after receipt of notification and without additional cost to the government.

### 3.7.3 Re-Hearing/Documents

Should the contractor cause the government to re-hear any case or hearing or other proceeding, the designated ordering official may request the Contractor to submit one (1) soft copy of the transcripts (in proper format) attached to an email (Microsoft Office 2010 version or later), one (1) hard copy, and/or both **at no cost to the government**. All documents shall be prepared, proofread, quality checked, and delivered by COB five (5) business days after the hearing to the designated ordering official.

In addition, the contractor shall be liable for all government expenses, claimant expenses and attorney fees incidental to the re-hearing. Although not a comprehensive list of examples, causes for re-hearings may include:

- Loss of original recordings, transcripts or photocopies
- Failure of the contractors court reporter/stenographer to appear, and a substitute cannot be obtained in sufficient time.
- Receipt of products by the Government in such poor condition as to be unusable.
- Attempted use of electronic recording equipment that fails to produce complete, accurate reporting, recording, and/or transcripts of the proceeding.

- Failure of the Contractor to deliver transcripts within the specified timeframe determined by the designated ordering official after a hearing.

#### **4 ORDERING PROCEDURES**

Ordering Procedures shall be in accordance with the Contractor's proposal, as negotiated and agreed upon.

#### **5 REPORTING REQUIREMENTS**

A monthly summary of charges shall be submitted to the CO via email identifying all completed orders and the associated charges accrued within one month period prior, each identified by USPTO job number and title.

#### **6 PERFORMANCE REQUIREMENTS**

##### **6.1 Transcription Services**

Any transcript not received within the stated deadlines when the USPTO has met all contractual requirements for notification and delivery described herein shall be subject to **TBD** % reduction for each business day that it is late.

Each transcribed page shall consist of a minimum of 22 lines with a minimum of 61 characters per line, including spaces. The last page of the transcription shall count as a full page if only partially filled.

The performance standard is 100% accuracy. Accuracy is defined as being without grammatical errors or misspelling except where the audio is unintelligible or the terms are obscure legal/technical terms not included in the provided materials, such as PowerPoint presentations that accompany the audio. Reductions in price for errors shall be **TBD** for each error identified.

##### **6.2 Corrective Actions**

Contractor will be allowed to correct and resubmit transcripts up to two times. Corrective actions shall be corrected and resubmitted within two (two) business days of notification.

Reduction in price for the 1st correction shall be **TBD** for each error identified.

Reduction in price for the 2nd correction shall be **TBD** % of the total invoice.

##### **6.3 Quality Control Plan (QCP)**

The contractor shall include a detailed description of the Offeror's surveillance and inspection system and how those surveillance and inspection systems will ensure services are performed in accordance with the performance objectives identified within this BPA and identify procedures to ensure complete, accurate, and security of legal record(s). The plan should also include provisions for any necessary remedial action plans.

#### 6.4 Performance Standards

The authorized ordering officials will monitor performance in accordance with Section 3 of this BPA, and as summarized in the table below:

Task	Description	Performance Standard	Frequency of Review	Method of Review	Acceptable Quality Level	Deduct Schedule
3.7.1 & 6.1	Original / E-Transcripts	Within (5, 7, or 10 Business Days) according to order	Monthly	100% Inspection	100%	___ % for each day late
3.7.2	Corrected Document	2 Business Days Completion	Monthly	100% Inspection	100%	___ % for each day late
3.7.3	Re-Hearing	5 Business Days Completion	Monthly	100% Inspection	100%	___ % for each day late
6.2	1 <sup>st</sup> Corrective Action–Returned	2 Business Days from notification	Each submission	100 % Inspection	4-5 typographical errors	___% of each error
6.2	2 <sup>nd</sup> Corrective Action–Returned	2 Business Days from notification	Each submission	100% Inspection	100%	___% of total invoice

#### 7 PERIOD OF PERFORMANCE

The period of performance shall be March 1, 2012 through February 29, 2017. This BPA will be reviewed annually to ensure adherence to authorized procedures. For pricing purposes, the periods are broken out as follows:

PERIOD	START DATE	END DATE
YEAR 1	March 1, 2012	February 29, 2013
YEAR 2	March 1, 2013	February 28, 2014
YEAR 3	March 1, 2014	February 28, 2015
YEAR 4	March 1, 2015	February 29, 2016
YEAR 5	March 1, 2016	February 28, 2017

#### 8 BACKGROUND INVESTIGATION

Background investigations and fingerprinting must be conducted and favorably adjudicated for each contract employee prior to commencing work on this task order. Contract employee(s) must make an appointment with USPTO's Office of Security and Safety to start background investigation and fingerprint check prior to receiving photo ID badge.

The Awardee shall furnish USPTO's Office of Security and Safety with the following information to obtain a photo ID badge for all contract employees who will be assigned regularly to this contract:

- a. Name of Contract
- b. Name of Company
- c. Name of Individuals
  - i. Date of Birth
  - ii. Place of Birth
  - iii. Last 5 digits of Social Security Number
- d. Expiration date of the Contract

## **9 CONTRACTING OFFICER'S AUTHORITY**

The Contracting Officer is the only person authorized to make any changes, or approve any changes in the requirements of this contract, and notwithstanding any provisions contained elsewhere in this contract, the said authority remains solely in the Contracting Officer. In the event the contractor makes any changes at the direction of any person other than the Contracting Officer, the change will be considered to have been without authority and no adjustment will be made in the contract price to cover any increase in costs occurred as a result thereof.

### **9.1 Contract Administration**

The Contract Specialist for this award is:

Stacy Duncan

571-272-2796

[Stacy.Duncan@uspto.gov](mailto:Stacy.Duncan@uspto.gov)

The Contracting Officer for this award is:

Heather Bakos

571-272-5361

[Heather.Bakos@uspto.gov](mailto:Heather.Bakos@uspto.gov)

## **10 BLANKET PURCHASE AGREEMENT TERMS AND CONDITIONS**

### **10.1 Description of Agreement**

The Contractor shall furnish the services described in Section 3 when requested by a USPTO Contracting Officer or other authorized representative of the Contracting Officer between March 1, 2012 through February 29, 2017, with a total aggregate ordering amount not to exceed \$500,000.

### **10.2 Extent of Obligation**

USPTO is obligated only to the extent of authorized purchases actually made under the BPA.

### **10.3 Purchase Limitation**

The dollar limitation for each individual purchase under the BPA shall be \$100,000.



#### 10.4 Wage Determination

The Department of Labor wage rates are applicable if the contractor anticipates using five (5) or more employees to provide services under this procurement over the term of the BPA. Wage determination will be updated annually on the anniversary of the contract award.

#### 10.5 BPA Calls

All BPA Calls issued against this BPA are subject to the terms and conditions found herein. Some BPA Calls may be placed against a bulk-funded Order. With each BPA Order Funding document, a list of the individuals authorized to purchase under the BPA identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each shall be furnished by the Contracting Officer. The Contractor shall not fill BPA Calls beyond the funding provided in that order, and will not be reimbursed beyond the amounts identified on those orders.

This BPA document does not obligate any funding.

#### 10.6 Individuals authorized to purchase under the BPA

Contractors are authorized to accept Government purchase cards from authorized Contracting Officers and/or authorized purchase cardholders. The individuals authorized to place calls/orders under this Agreement and the dollar limitation based upon use of their purchase cards, are shown below:

<u>Name</u>	<u>Dollar Limitation</u>	<u>Phone Number</u>
Jodie Flakowicz	\$2,500.00	571-272-8002
Eleanor Cook	\$2,500.00	571-272-4590
Sherryl Schoeman	\$2,500.00	571-272-1195
Bernice LittleJohn	\$2,500.00	571-272-5485

#### 10.7 Delivery Tickets

All orders filled under the BPA shall be followed by delivery tickets monthly that shall contain the following information:

- Name of Contractor, DUNS#, invoice number and invoice date.
- BPA Number
- Date of Order
- Job Number and Title
- Itemized list of services furnished
- Quantity, unit price, and extension of each item, less applicable discounts
- Date of Order Fulfillment

#### 10.8 Orders

BPA call orders shall not be submitted to the designated ordering official(s). The Contractor shall submit the orders to the following appropriate personnel:

- A. A separate invoice for each BPA call order shall be submitted to:  
[officeoffinance@uspto.gov](mailto:officeoffinance@uspto.gov)

**OR**

Mail Stop 17  
Director of the U.S. Patent and Trademark Office  
Office of Finance  
P.O. Box 1450  
Alexandria, VA 22313-1450

- B. Purchase card order(s) shall be submitted to the designated ordering official.
- C. A monthly summary of **ALL** orders shall be submitted to the Contracting Officer. The monthly summary shall:
- i. Identify delivery ticket covered therein
  - ii. State the total dollar value and
  - iii. Supported by receipt copies of the delivery tickets.

### 11 ADDITIONAL TERMS AND CONDITIONS

#### 11.1 PTO-04 Security Clauses

##### ACCESS TO GOVERNMENT FACILITIES

During the life of the contract, the rights of ingress and egress to and from the Government facility for Contractor personnel shall be made available as required. During all operations on Government premises, Contractor personnel shall comply with the rules and regulations governing the conduct of personnel and the operation of the facility. The Government reserves the right to require Contractor personnel to sign in upon ingress and sign out upon egress to and from the Government facility.

##### DUPLICATION AND DISCLOSURE OF CONFIDENTIAL DATA

Duplication or disclosure of confidential data provided by the USPTO or to which the Contractor will have access as a result of this contract is prohibited. It is understood that throughout performance of the contract the Contractor may have access to confidential data which is the sole property of the USPTO, as well as access to proprietary data which is the sole property of other than the contracting parties. The Contractor hereby agrees to maintain performance whether title

thereto vests in the USPTO or otherwise. The Contractor hereby agrees not to disclose said data, any interpretations thereof or data derivative therefrom, to unauthorized parties in contravention of these provisions without prior written approval of the CO or the party in which title thereto is wholly vested. This clause also applies to any subcontractors and/or consultants used by the Contractor.

#### **GOVERNMENT FURNISHED DATA (IF APPLICABLE)**

The Government shall deliver to the Contractor, as may be requested, Government-Furnished Data (GFD) during the performance of this contract. GFD will be delivered to the Contractor as specified in each task order.

Title to GFD shall remain in the Government, and the Contractor shall use the GFD only in connection with this contract.

Upon completion or termination of this contract, the Contractor shall return to the Government all GFD.

#### **RIGHTS IN DATA (IF APPLICABLE)**

The Government shall have unlimited rights in software first produced in the performance of this contract. For the purposes of this clause, "software first produced in the performance of this contract" shall include, but not be limited to the following: non-COTS computer programs developed or previously developed and implemented by the Contractor in the performance of this contract, related computer data bases and documentation thereof, source code, object code, algorithms, library code, library routine, and technical data of all software first produced in the performance of this contract. For the purposes of this clause, "unlimited rights" shall mean the right of the USPTO, at no extra cost to the USPTO or recipients, to use, disclose, reproduce unlimited copies, prepare derivative works, distribute unlimited copies to the public and foreign government patent offices, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.

#### **SECRECY AND USAGE OF PATENT INFORMATION**

Work under this contract does not affect the national security. However, patent applications are required by law (35 U.S.C. 122) to be kept in confidence. Information contained in any patent application file(s) is restricted to authorized Contractor personnel on a need-to-access basis.

The Contractor acquires no right or privilege to use or disclose any information contained in any patent application file (in any form whatsoever) except to perform the work under the contract. Further, the Contractor shall not copyright or make any use or disclose whatsoever any patent information contained in any application or related copy or data furnished to the Contractor by the Government or obtained therefrom except performing the requirements of this contract.

Security requirements of patent application file data maintained in a computer-accessible medium are an extension of the security requirements for the hard copy or the patent application folders. All processing, storage or transmission of patent application file data by means of electronic communications systems is prohibited unless use of such systems is approved by the USPTO.

All personnel having access to patent application files or data or information concerning the same, must take the following affirmation, signed in writing:

“I do swear or affirm that I will preserve the applications for patents in secrecy, that I will not divulge any information concerning the same to unauthorized persons while employed in work under this contract or at any time thereafter; and that I take this obligation freely, and without mental reservation or purpose of evasion.”

Each employee’s signed oath, or affirmation, shall be retained in the Contractor’s file, subject to inspection by authorized Government representatives.

#### **11.2 PTO-06 Limitation on Contractor Advertisements**

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Federal Government or is considered by the Government to be superior to other products or services. Advertisements, press releases and publicity of a contract by a supplier shall not be made without the prior express written permission of the Contracting Officer.

(End of provision)

#### **11.3 PTO-08 Physical Access**

##### **Provision/Clause**

The performance of this contract requires contractors to have physical access to Federal premises for more than 180 days or access to a Federal information system. Any items or services delivered under this contract shall comply with the Department of Commerce personal identity verification procedures that implement HSPD-12, FIPS PUB 201, and OMB Memorandum M-05-24.

The Contractor shall insert this clause in all subcontracts when the subcontractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

(End of provision)

#### **11.4 FAR 52.212-4 Contract Terms and Conditions – Commercial Items (June 2010)**

The clause at FAR 52.212-4 is hereby incorporated by reference.

**11.5 FAR 52.212-5 Contract Terms and Conditions Required to Implement  
Statutes or Executive Orders – Commercial Items (Nov 2011)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

\_\_\_ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(2) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

*[Contracting Officer check as appropriate.]*

\_\_\_ (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

\_\_\_ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

\_\_\_ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub L. 111-5) (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009).

\_\_\_ (4) 52.204-10, Reporting Executive compensation and First-Tier Subcontract Awards (Jul 2010) (Pub. L. 109-282) (31 U.S.C. 6101 note).

\_\_\_ (5) 52.204-11, American Recovery and Reinvestment Act—Reporting Requirements (Jul 2010) (Pub. L. 111-5).

\_\_\_ (6) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010) (31 U.S.C. 6101 note).

\_\_\_ (7) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (section 740 of Division C of Public Law 111-117, section 743 of Division D of Public Law 111-8, and section 745 of Division D of Public Law 110-161).

\_\_\_ (8) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Nov 2011) (15 U.S.C. 657a).

\_\_\_ (9) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Jan 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer)(15 U.S.C. 657a).

\_\_\_ (10) [Reserved]

**X** (11) (i) 52.219-6, Notice of Total Small Business Aside (Nov 2011) (15 U.S.C. 644).

\_\_\_ (ii) Alternate I (Nov 2011).

\_\_\_ (iii) Alternate II (Nov 2011).

\_\_\_ (12) (i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

\_\_\_ (ii) Alternate I (Oct 1995) of 52.219-7.

\_\_\_ (iii) Alternate II (Mar 2004) of 52.219-7.

\_\_\_ (13) 52.219-8, Utilization of Small Business Concerns (Jan 2011) (15 U.S.C. 637(d)(2) and (3)).

\_\_\_ (14) (i) 52.219-9, Small Business Subcontracting Plan (Jan 2011) (15 U.S.C. 637 (d)(4).)

\_\_\_ (ii) Alternate I (Oct 2001) of 52.219-9.

\_\_\_ (iii) Alternate II (Oct 2001) of 52.219-9.

\_\_\_ (iv) Alternate III (July 2010) of 52.219-9.

\_\_\_ (15) 52.219-13, Notice of Set-Aside of Orders (Nov 2011) (15 U.S.C. 644(r)).

**X** (16) 52.219-14, Limitations on Subcontracting (Nov 2011) (15 U.S.C. 637(a)(14)).

\_\_\_ (17) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).

\_\_\_ (18) (i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (Oct 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

\_\_\_ (ii) Alternate I (June 2003) of 52.219-23.

\_\_\_ (19) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Dec 2010) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

\_\_\_ (20) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).

\_\_\_ (21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Nov 2011) (15 U.S.C. 657f).

\_\_\_ (22) 52.219-28, Post Award Small Business Program Representation (Apr 2009) (15 U.S.C. 632(a)(2)).

\_\_\_ (23) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns (Nov 2011).

\_\_\_ (24) 52.219-30, Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Nov 2011).

**X** (25) 52.222-3, Convict Labor (June 2003) (E.O. 11755).

**X** (26) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (Jul 2010) (E.O. 13126).

**X** (27) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).

**X** (28) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

**X** (29) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

**X** (30) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

\_\_\_ (31) 52.222-37, Employment Reports on Veterans (Sep 2010) (38 U.S.C. 4212).

\_\_\_ (32) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

\_\_\_ (33) 52.222-54, Employment Eligibility Verification (Jan 2009). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

\_\_\_ (34) (i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_\_ (35) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).

\_\_\_ (36) (i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (Dec 2007) (E.O. 13423).

\_\_\_ (ii) Alternate I (Dec 2007) of 52.223-16.

**X** (37) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011).

**X** (38) 52.225-1, Buy American Act--Supplies (Feb 2009) (41 U.S.C. 10a-10d).

\_\_\_ (39) (i) 52.225-3, Buy American Act --Free Trade Agreements -- Israeli Trade Act (Jun 2009) (41 U.S.C. 10a-10d, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, Pub. L. 108-77, 108-78, 108-286, 108-301, 109-53, 109-169, 109-283, and 110-138).

\_\_\_ (ii) Alternate I (Jan 2004) of 52.225-3.

\_\_\_ (iii) Alternate II (Jan 2004) of 52.225-3.

\_\_\_ (40) 52.225-5, Trade Agreements (Nov 2011) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

\_\_\_ (41) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_\_ (42) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (43) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

\_\_\_ (44) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).



\_\_\_ (45) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).

**X** (46) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration (Oct. 2003) (31 U.S.C. 3332).

\_\_\_ (47) 52.232-34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration (May 1999) (31 U.S.C. 3332).

\_\_\_ (48) 52.232-36, Payment by Third Party (Feb 2010) (31 U.S.C. 3332).

**X** (49) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).

\_\_\_ (50) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631).

\_\_\_ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items:

*[Contracting Officer check as appropriate.]*

**X** (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, *et seq.*).

**X** (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of [5 U.S.C. 5341](#) or [5332](#).

*This Statement is for Information Only:  
It is not a Wage Determination*

<b>Employee Class</b>	<b>Monetary Wage—Fringe Benefits</b>	
<u>01040- Court Reporter</u>	<u>\$21.84</u>	<u>\$3.59 per hour</u>

(End of clause)

**X** (3) 52.222-43, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C.206 and 41 U.S.C. 351, *et seq.*).

\_\_\_ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, *et seq.*).

\_\_\_ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*).

\_\_\_ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*).

\_\_\_ (7) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247).

\_\_\_ (8) 52.237-11, Accepting and Dispensing of \$1 Coin (Sep 2008) (31 U.S.C. 5112(p)(1)).

(d) *Comptroller General Examination of Record* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this

paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), (41 U.S.C. 351, *et seq.*)

(ix) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

\_\_\_ Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (Nov 2007) (41 U.S.C. 351, *et seq.*)

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Feb 2009) (41 U.S.C. 351, *et seq.*)

(xii) 52.222-54, Employment Eligibility Verification (Jan 2009).

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (Mar 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately-Owned U.S. Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

#### **11. 6 FAR 52.217-8, Option to Extend Services (Nov 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days.

(End of Clause)

#### **11. 7 Confidentiality of Files**

USPTO audio files and other media formats as well as transcribed content shall be kept strictly confidential and by no means released to the public.

### **12 QUOTE INSTRUCTIONS:**

#### **12.1 Submission Requirements**

Questions regarding this solicitation must be submitted via email to: [Stacy.Duncan@uspto.gov](mailto:Stacy.Duncan@uspto.gov) no later than 12:00 PM (EST), "Contracting Officer's Local Time," **Thursday, February 2, 2012**.

Quote submissions are due no later than 4:00 PM (EST), "Contracting Officer's Local Time," **Thursday, February 9, 2012**, via email to: [Stacy.Duncan@uspto.gov](mailto:Stacy.Duncan@uspto.gov).

The Offerors shall submit the following with their quote submission:

#### **A. Technical**

##### **1. Technical Capability Statement (3 Page Maximum)**

The Offeror shall provide an overview of the company and its capabilities to perform the requirements contained within this solicitation document.

##### **2. Work Plan (3 Page Maximum)**

The Offeror shall provide a plan for meeting the requirements contained herein, to include ordering procedures, staffing procedures, method of transferring data, reporting, and invoicing methods and Quality Control Plan (QCP)

**B. Past Performance References (3 References Minimum)**

References shall be from contracts performed within the last three (3) years and shall be relevant to the requirements of this BPA. References shall include a brief description of the work, a name of the agency or company, a point of contact, with phone number and email address. It is the responsibility of the Offeror to verify the contact information prior to submission. Additionally, the Offeror shall request that the same references submit the attached Past Performance Questionnaire as per the instructions on the form.

**C. Price Quote**

The contractor shall complete and submit under separate cover from the Technical, pricing for the Schedule of Supplies/Services (Section 2) and a proposed deductible percentage for each task identified under Sections 6.1, 6.2, and the Performance Standards (Section 6.4). Any assumptions and/or additional pricing information shall be included here, and not in the Technical section. Pricing will be evaluated for fairness and reasonableness.

**12.2 Amendments**

The USPTO reserves the right to amend the terms of this RFQ at any time prior to the source selection decision. If appropriate, the Offerors will have an opportunity to modify their offers.

**12.3 FAR 52.212-1, Instructions to Offerors – Commercial Items (June 2008)**

The provision at FAR 52.212-1 is hereby incorporated by reference.

**12.4 FAR 52.212-3, Offeror Representations and Certifications – (NOV 2011)**

The Offeror shall complete the following and submit with the proposal:

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically at <http://orca.bpn.gov>. If an offeror has not completed the annual representations and certifications electronically at the ORCA website, the offeror shall complete only paragraphs (c) through (o) of this provision.

(a) *Definitions.* As used in this provision—

“Economically disadvantaged women-owned small business (EDWOSB) concern” means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

“Forced or indentured child labor” means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

“Inverted domestic corporation”, as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), *i.e.*, a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a

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subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at [26 U.S.C. 7874](#).

“Manufactured end product” means any end product in Federal Supply Classes (FSC) 1000-9999, except—

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

“Sensitive technology”—

- (1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—
  - (i) To restrict the free flow of unbiased information in Iran; or
  - (ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and
- (2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

“Service-disabled veteran-owned small business concern”—

- (1) Means a small business concern—
  - (i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

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(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#).

“Small business concern” means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

“Subsidiary” means an entity in which more than 50 percent of the entity is owned—

- (1) Directly by a parent corporation; or
- (2) Through another subsidiary of a parent corporation.

“Veteran-owned small business concern” means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at [38 U.S.C. 101\(2\)](#)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned business concern” means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

“Women-owned small business concern” means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

“Women-owned small business (WOSB) concern eligible under the WOSB Program” (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)

(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the Online Representations and Certifications Application (ORCA) website.

(2) The offeror has completed the annual representations and certifications electronically via the ORCA website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)), except for paragraphs \_\_\_\_\_.

*[Offeror to identify the applicable paragraphs at (c) through (o) of this provision that the offeror has completed for the purposes of this solicitation only, if any.*

*These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.*

*Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.]*

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(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it o is, o is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it o is, o is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it o is, o is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it o is, o is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it o is, o is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It o is, o is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It o is, o is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate in reference to the WOSB concern or concerns that are participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern or concerns that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It o is, o is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It o is, o is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate in reference to the EDWOSB concern or concerns that are participating in the joint venture. The offeror shall enter the name or names of the EDWOSB concern or concerns that are participating in the joint venture: \_\_\_\_\_. Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it o is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror



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or first-tier subcontractors) amount to more than 50 percent of the contract price: \_\_\_\_\_

(10) *[Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]*

(i) *General.* The offeror represents that either—

(A) It o is, o is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the CCR Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It o has, o has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) o *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]*

(11) *HUBZone small business concern.* *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, as part of its offer, that—

(i) It o is, o is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It o is, o is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. *[The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.]* Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) Representations required to implement provisions of Executive Order 11246—

(1) Previous contracts and compliance. The offeror represents that—

(i) It o has, o has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It o has, o has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that—

(i) It o has developed and has on file, o has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 cfr parts 60-1 and 60-2), or

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(ii) It o has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Act Certificate*. (Applies only if the clause at Federal Acquisition Regulation (FAR) [52.225-1](#), Buy American Act—Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Supplies.”

(2) Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#).

(g)(1) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate*. (Applies only if the clause at FAR [52.225-3](#), Buy American Act—Free Trade Agreements—Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, or Peruvian End Products) or Israeli End Products:

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**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

**Line Item No. Country of Origin**

_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#).

(2) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I*. If Alternate I to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

**Line Item No.**

_____
_____
_____

[List as necessary]

(3) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II*. If Alternate II to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American Act—Free Trade Agreements—Israeli Trade Act”:

Canadian or Israeli End Products:

**Line Item No. Country of Origin**

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[List as necessary]

(4) *Trade Agreements Certificate*. (Applies only if the clause at FAR [52.225-5](#), Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(4)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line Item No.	Country of Origin
---------------	-------------------


[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#). For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689)*. (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) o Are, o are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) o Have, o have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) o Are, o are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) o Have, o have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

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(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.*

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) Certification Regarding Knowledge of Child Labor for *Listed End Products (Executive Order 13126)*. [*The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).*]

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin

(2) *Certification.* [*If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.*]

[ ] (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

[ ] (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

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(1) In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Act.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [*The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

☐ (1) Maintenance, calibration, or repair of certain equipment as described in FAR [22.1003-4\(c\)\(1\)](#). The offeror does or does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR [22.1003-4\(c\)\(2\)\(ii\)](#)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

☐ (2) Certain services as described in FAR [22.1003-4\(d\)\(1\)](#). The offeror does or does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR [22.1003-4\(d\)\(2\)\(iii\)](#));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to a central contractor registration database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of [31 U.S.C. 7701\(c\)](#) and [3325\(d\)](#), reporting requirements of [26 U.S.C. 6041](#), [6041A](#), and [6050M](#), and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government ([31 U.S.C. 7701\(c\)\(3\)](#)). If the resulting contract is subject to the

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payment reporting requirements described in FAR [4.904](#), the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN).*

- o TIN: \_\_\_\_\_.
- o TIN has been applied for.
- o TIN is not required because:
  - o Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
  - o Offeror is an agency or instrumentality of a foreign government;
  - o Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

- o Sole proprietorship;
- o Partnership;
- o Corporate entity (not tax-exempt);
- o Corporate entity (tax-exempt);
- o Government entity (Federal, State, or local);
- o Foreign government;
- o International organization per 26 CFR 1.6049-4;
- o Other \_\_\_\_\_.

(5) *Common parent.*

- o Offeror is not owned or controlled by a common parent;
- o Name and TIN of common parent:
  - Name \_\_\_\_\_.
  - TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations.*

(1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code [25 U.S.C. 7874](#).

(2) *Representation.* By submission of its offer, the offeror represents that—

- (i) It is not an inverted domestic corporation; and
- (ii) It is not a subsidiary of an inverted domestic corporation.

(o) *Sanctioned activities relating to Iran.*

(1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and Certification.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran; and

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act.

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—



(i) This solicitation includes a trade agreements certification (*e.g.*, [52.212-3\(g\)](#)) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(End of Provision)

**12.5 PTO-10 - Agency-Level Protest Procedures**  
**Agency-Level Protest Procedures Level Above the Contracting Officer (DEC 1996)**

**a. PURPOSE:**

To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103). On October 25, 1995, President Clinton signed Executive Order No. 12979, which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the Contracting Officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive). The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the Contracting Officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above the Contracting Officer.

**b. DEFINITIONS:**

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102.

- c. A day is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

**d. PROCEDURES:**

- i. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department. Protests shall be addressed to:

**Chief Financial Officer**  
U.S. Patent & Trademark Office



P.O. Box 1450  
Alexandria, VA 22313-1450

The outside of the envelope or beginning of the FAX transmission must be marked "Agency- level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

**Office of the General Counsel**

General Law Office  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
(FAX Number 571-273-0099)

- ii. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the Government Accountability Office (GAO) or any other external forums. If the protester has already filed with the GAO or other external forums, the procedures described here may not be used.
- a. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.
- b. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.
- c. To be complete, protests must contain the following information:
  - 1. the protester's name, address, telephone number, and fax number
  - 2. the solicitation or contract number, name of contracting office and the contracting officer
  - 3. a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
  - 4. copies of relevant documents supporting protester's statement
  - 5. a request for ruling by the agency
  - 6. Statement as to form of relief requested
  - 7. all information establishing that the protester is an interested party for the purpose of filing a protest
  - 8. all information establishing the timeliness of the protest

All protests must be signed by an authorized representative of the protester. Within 14 days after the protest is filed, the Contracting Officer will prepare an administrative report that responds to the issues raised by the protester and addresses any other issues, which, even if not raised by the

protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all interested parties within 1 day of the decision to grant the extension. Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals. The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office and Office of Acquisition Management.

- iii. Effect of protest on award and performance: When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:
  - a. The supplies or services are urgently required,
  - b. delivery or performance would be unduly delayed by failure to make the award promptly, or
  - c. a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.506, whichever is later, the Contracting Officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

- a. contract performance would be in the best interest of the United States, or
- b. urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

**d. REMEDIES:**

The protest decision authority may grant one or more of the following remedies:

- i. terminate the contract,
- ii. re-compete the requirement,
- iii. issue a new solicitation,
- iv. refrain from exercising options under the contract,
- v. award a contract consistent with statutes and regulations,
- vi. amend the solicitation provisions which gave rise to the protest and continue with the procurement,
- vii. such other remedies as the decision-maker may determine are necessary to correct a defect.

(End of provision)

## **13 EVALUATION OF QUOTES**

### **13.1 Evaluation**

- a. The Government will award a contract resulting from this solicitation to the responsible offeror(s) whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers, in descending order of importance.

Factor 1: Technical

1.a.: Technical Capability

1.b.: Technical Work Plan

Factor 2: Past Performance

Factor 3: Price

Technical is more important than past performance, which is more important than price.

- b. A written notice of award or acceptance of an offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in an agreement without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

### **13.2 Best Value Determination**

The USPTO will make an award resulting from this solicitation to the responsible offer whose offer will be the most advantageous and represents the best value to the USPTO, price and other factors considered. In making the best value determination, the USPTO will evaluate technical, past performance, and price. The USPTO shall determine what tradeoff among these factors provides the greatest value to the USPTO.

(End of provision)

### **13.3 Discussions**

To the extent deemed necessary by the Government, discussions will be conducted with all Offerors who are eligible to receive a contract award resulting from this RFQ. The Government reserves the right to award without discussions.

**LIST OF ATTACHMENTS**

1. Past Performance Questionnaire
2. Sample Court Reporting Format
3. Wage Determination

**END OF SOLICITATION**